

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 M) for Authority to Continue Funding of LEV Programs.

Application 02-03-047

Application of Southern California Edison Company (U 338 E) to Extend the Operation of Its Electric Vehicle Adjustment Clause Mechanism and Related Accounts Until the Date of the Commission's Final Decision in SCE's Test Year 2003 General Rate Case Proceeding.

Application 02-03-048

Application of Pacific Gas and Electric Company for Review of and Authorization for Recovery of Cost Relating to Its Low Emission Vehicle (LEV) Program for 2002 through 2005. (U 39 E)

Application 02-03-049

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING PETITION FOR MODIFICATION**

Summary

The petition of USA Waste of California, Inc.¹ (WMI) for modification of Decision (D.) 95-11-035 is denied and WMI's request for funding of its liquefied natural gas (LNG) pilot program is incorporated into the coordinated application proceeding² Application (A.) 02-03-047, A.02-03-048, and A.02-03-049.

Background

WMI is the operator of solid waste landfills and develops landfill gas-to-energy. Landfill gas is a by-product of the naturally occurring decomposition in a solid waste landfill. In its petition, WMI seeks financial assistance in the amount of \$10.56 million over three years to fund the research and development of its LNG pilot program to fuel one of the largest fleets of private, heavy-duty vehicles. WMI's project was initially an electric generation project, and when direct access was suspended, the financial viability of the project was eliminated. WMI changed the project from producing electricity at landfills to producing LNG from landfill gas.

In 1991, the Commission initiated two proceedings in response to direction from the California Legislature to implement policies encouraging energy utilities to undertake a variety of activities to stimulate the market such as developing refueling infrastructure and conducting equipment research. Investigation 91-10-029 was an order instituting investigation to develop a policy governing utility involvement in the market for LEV, and Rulemaking 91-10-028

¹ USA Waste of California, Inc., is a wholly-owned California subsidiary of Waste Management, Inc. Hereinafter, USA Waste and Waste Management, Inc. are collectively referenced as WMI.

² The initial Prehearing Conference (PHC) in the three utility applications, A.02-03-047/048/049 is scheduled for May 21, 2002, and at that time the applications will be coordinated for scheduling and hearing purposes.

was an order instituting rulemaking to establish rules and procedures governing utility involvement for LEVs.

The investigation and rulemaking proceeding was conducted in two phases: Phase I resulted in D.93-07-054 that created policy guidelines to govern utility activities in developing the LEV market, and Phase II produced D.95-11-035 that created the funding requirements related to LEVs for a six-year period, ending in December, 2001. The funding was specific to San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), Southern California Edison Company (Edison), and Pacific Gas and Electric Company (PG&E). In point of fact, the funding established by D.95-11-035 for the above utilities expired by the terms of the decision, but was extended until December 31, 2002, by Resolution G-3322. The investigation and rulemaking proceedings are closed and are not subject to modification at this time.

On February 11, 2002, WMI filed the instant petition to modify D.95-11-035. On March 7, 2002, SDG&E and Edison filed a response urging the Commission to deny WMI's petition. On March 13, 2002, the Air Resources Board sent the Commission a letter supporting WMI's proposed modifications to D.95-11-035.

On March 25, 2002, SDG&E and SoCalGas filed A.02-03-047, Edison filed A.02-03-048, and PG&E filed A.02-03-049 seeking continued funding for their LEV programs. WMI's petition, The Air Resources Board letter, and the utilities' response were filed before the new applications.

Discussion

WMI's petition asks the Commission to modify D.95-11-035, that addressed funding for LEV programs by the regulated utilities, to include research and development funds of conversion of landfill gas to LNG for WMI. Specifically, WMI's asks for the following modifications:

- (1) augment funds previously authorized for PG&E, SoCalGas, and SDG&E for natural gas infrastructure projects by \$10.56 million over three years; and
- (2) direct that the augmented funds be used to support WMI's LNG pilot program.

WMI supports this modification on the basis that its program will provide direct benefit to utility ratepayers because the program is designed to improve the efficiency, reliability, and safety of the LNG fuel manufacturing and delivery processes from the landfill to the vehicle and will expand the market for use of such fuels in heavy duty vehicles in California and nationwide. In addition, the program promises substantial benefits to air quality, public health, and the environment.

SoCalGas and SDG&E's response to WMI's petition clearly points out that the LEV program established by D.95-11-035 is not the vehicle to fund WMI's research and development. The LEV decision concentrated only on the development of LEVs with respect to the use of natural gas and electricity—and not alternative energy sources, and set specific guidelines in authorizing only the use of natural gas and electricity. More importantly, the utilities contend that it is inappropriate for WMI to request that utility ratepayers fund its project. While there may be overall benefits to Californians if WMI is able to convert its heavy-duty vehicles from using diesel to LNG, there is no direct benefit to utility ratepayers.

Without discussing the merits of WMI's petition, or the strength of SDG&E and SoCalGas' opposition, the Commission finds that requesting modification of D.95-11-035 is not the appropriate proceeding for exploring the funding of WMI's research and development project. The Commission will be proceeding on the three applications, A.02-03-047, A.02-03-048, and A.02-03-049 filed by SDG&E and SoCalGas, Edison, and PG&E respectively. WMI may intervene in

that proceeding and raise the issue of whether utility ratepayer funding should be made available for WMI, or other similarly situated entities, to research and develop LNG pilot programs.

This denial of WMI's petition will not restrict WMI's rights to participate in the LEV application proceedings, and will allow the topics and issues of interest to WMI, and others, to be considered by all participating parties. This approach is preferred, especially in light of the fact that the funding provisions in D.95-11-035 have expired by the terms of the decision, and the rulemaking and investigation proceedings that produced that decision are closed.

IT IS RULED that the petition of USA Waste of California, Inc. (WMI) for modification of Decision 95-11-035 is denied and WMI's request for funding of its liquefied natural gas pilot program is incorporated into the coordinated application proceeding Application (A.) 02-03-047, A.02-03-048, and A.02-03-049.

Dated May 6, 2002, at San Francisco, California.

/s/ Carol Brown
Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Petition for Modification on all parties of record in this proceeding or their attorneys of record.

Dated May 6, 2002, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

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